

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT MARTINSBURG**

GREGORY JONES,

Petitioner,

v.

**CIVIL ACTION NO. 1:04CV203
(BROADWATER)**

KEVIN WENDT, Warden,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day the above styled case came before the Court for consideration of the Report and Recommendation of Magistrate Judge John S. Kaull, dated August 22, 2005. Neither party filed objections to the Report. After reviewing the above, the Court is of the opinion that the Magistrate Judge's Report and Recommendation (**Document 13**) should be and is hereby **ORDERED** adopted.

The Court notes that a review of the docket in this matter indicates at Document 14 that the Report and Recommendation was twice mailed to the defendant at his last known address but was returned as undeliverable to the Court. A search of the Inmate Locator at <http://www.bop.gov> indicates the petitioner, Register Number 10552-007, was released from imprisonment on February 2, 2006.

Therefore, the Court now **ORDERS**

- 1) that the petition of the petitioner be **DENIED and DISMISSED WITH PREJUDICE** based on the reasons set forth in the Magistrate Judge's Report and Recommendation and the Court's finding that petitioner's petition is now **MOOT** based upon his release from incarceration; and

2) that this action be and is hereby **STRICKEN** from the active docket of this Court.

The Clerk is directed to transmit true copies of this Order to the petitioner and all counsel of record herein.

DATED this 25th day of April 2006.


W. CRAIG BROADWATER
UNITED STATES DISTRICT JUDGE